



California Regional Water Quality Control Board

San Diego Region

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972



Gray Davis
Governor

June 19, 2003

Certified Mail – Return Receipt Requested
7003 05000004 6402 6098

Attn: Mr. Greg Ponce
Shea Homes
10721 Trenea Street, Suite 200
San Diego, CA 92131

WDID: 9 37S318049
File No.: 10-3018049.02

Dear Mr. Ponce:

30 Day Notice: Proposed Settlement of Complaint No. R9-2003-0161, Administrative Civil Liability Issued Pursuant to the Porter-Cologne Water Quality Control Act Section 13385

As you know, on June 11, 2003, the Regional Water Quality Control Board - San Diego Region, (Regional Board) took no action on ACL Complaint No. R9-2003-0161 to allow consideration of your proposed settlement of this matter. The terms of the settlement are summarized in the letter from your attorney, Steven L. Marsh, dated June 5, 2003.

I would like to clarify item number five which states that *[t]he settlement is without an admission of liability and will resolve all liability which was alleged or could have been alleged in ACL Complaint No. R9-2003-0161, including all past violations at Kelly Ranch.* The Regional Board agrees to withdraw the complaint. Although the ACL complaint is withdrawn, that procedure does not alter our findings of the alleged violations documented at your site. Therefore, if an ACL is justified in the future for new violations, the amount of liability assessed would then also be based on consideration of all past violations, the Shea Homes response to the violations, as well as other factors established in the California Water Code. ACL Complaint No. R9-2003-0161 can and would be used as part of the history of Shea Homes.

I have determined that it is in the best interest of the Regional Board to resolve the matter of these violations by accepting your settlement conditions with the clarification noted above. In addition to the terms of the settlement summarized in the letter from your attorney, I am going to direct your attention to four points that I will emphasize are an essential part of the settlement.

1. The site must be in compliance with the General Permit now and must remain in compliance during the rain season later this year. Compliance will be determined in at least two inspections by a Regional Board inspector on June 9, 2003 and by October 1, 2003.
2. If violations are found during these inspections, you and your staff must provide cooperative action to address and resolve the violations. If violations are found, cooperation will be determined and declared in at least two status/inspection reports by a Regional Board inspector by June 23, 2003 and October 31, 2003.

California Environmental Protection Agency

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3. The construction site must at all times show the future likelihood of compliance to protect waters of the state. There must be no discharge violations.
4. Shea Homes must make payment to the State Water Pollution Cleanup and Abatement Account (CAA) of \$20,000 and payment of \$40,000 for the aid of completion of a supplemental environmental project (SEP). Failure to complete the SEP by the proponent's timeline will require Shea Homes to make payment of \$40,000 to the CAA.

Assuming you concur with the clarification stated above, interested persons will be given 30 days to comment on the amount and terms of the settlement agreement. The public comment period for this item will begin on June 30, 2003 and end on July 30, 2003.

Subsequently, the Regional Board will consider acceptance of the proposed settlement during their regular meeting of August 13, 2003. This meeting will begin 9:00 a.m. and be held at the Regional Board Meeting Room, 9174 Sky Park Court, Suite 100, San Diego, California. The Regional Board will send you an agenda towards the end of the month of July and include copies of all comments received, if any were submitted.

If you have any questions, please contact Mr. Vicente Rodriguez of my staff at (858) 627-3940.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

JHR:mpm:mja:vrr

Enclosures: 1.) Shea Homes/Kelly Ranch, ACL Complaint No. R9-2003-0161 –
 Settlement dated June 5, 2003 from Stephen L. Marsh
 2.) Notice of Public Hearing

cc: Mr. Steven L. Marsh
 Luce, Forward, Hamilton & Scripps LLP
 600 West Broadway, Suite 2600, San Diego, CA 92101

City of Carlsbad
Public Works Department
Attn: Lloyd Hubbs
5950 El Camino Real, Carlsbad, CA 92008

City of Vista
Engineering Department
Attn: Dan York
P.O. Box 1988, Vista, CA 92085-1988

City of Oceanside
Attn: Mo Lahsaiezadeh
300 North Coast Highway, Oceanside, CA 92054

City of San Marcos
Attn: Jason Boyens
201 Mata Way, San Marcos, CA 92069-2948

Agua Hedionda Lagoon Foundation
P.O. Box 4004, Carlsbad, CA 92018

Building Industry Association of San Diego County
6336 Greenwich Drive, Suite A, San Diego, CA 92112-5922

Shea Homes R9-2003-0161 Settlement Transmittal Letter [mpm].doc